

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RICHARD HOLLIHAN,</b>	:	<b>CIVIL ACTION NO. 3:15-CV-005</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
<b>v.</b>	:	
	:	
<b>PENNSYLVANIA DEPARTMENT OF CORRECTIONS, <i>et al.</i>,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 21st day of July, 2015, upon consideration of the motion (Doc. 61) to stay discovery, filed July 17, 2015, by defendants Pennsylvania Department of Corrections; John Wetzel, Secretary of the Pennsylvania Department of Corrections; and Bryan Hyde, Correctional Health Care Administrator of the State Correctional Institution at Somerset (collectively, “Commonwealth Defendants”), wherein Commonwealth Defendants request the court to stay discovery pending disposition of plaintiff Richard Hollihan’s (“Hollihan”) motion (Doc. 2) for class certification; defendants’ motions (Docs. 17, 28, 42) to dismiss; and Commonwealth Defendants’ motion (Doc. 60) for judgment on the pleadings, and it appearing that Commonwealth Defendants consider the pending motions to dismiss and the motion for judgment on the pleadings to be meritorious and dispositive of the case, (see Doc. 62 at 3), and it further appearing that said motions, if granted, would entirely dispose of Hollihan’s claims, and the court finding that control of the discovery process is committed to its discretion, see *In re Orthopedic Bone Screw Prod. Liab. Litig.*, 264 F.3d 344, 365 (3d Cir. 2001) (noting that the Court of Appeals reviews “questions concerning the scope or opportunity for discovery” for abuse of

discretion), and the court concluding that discovery would be futile if defendants' motions to dismiss and motion for judgment on the pleadings are granted, see Mann v. Brenner, 375 F. App'x 232, 239 (3d Cir. 2010) (nonprecedential) ("In certain circumstances it may be appropriate to stay discovery while evaluating a motion to dismiss where, if the motion is granted, discovery would be futile."), and that a stay of discovery would not prejudice Hollihan because he will have the opportunity to pursue any existing claims subsequent to the court's disposition of the pending motions, see 19th St. Baptist Church v. St. Peters Episcopal Church, 190 F.R.D. 345, 349 (E.D. Pa. 2000) (stating that a stay is proper where the likelihood that pending motions may bring about "a narrowing or an outright elimination of discovery outweighs the likely harm to be produced by the delay") (citation omitted), it is hereby ORDERED that:

1. The motion (Doc. 61) to stay discovery is GRANTED.
2. Discovery in the above-captioned matter is STAYED pending disposition of the motion (Doc. 2) for class certification, the motions (Docs. 17, 28, 42) to dismiss, and the motion (Doc. 60) for judgment on the pleadings.<sup>1</sup>
3. A pretrial and trial schedule shall issue upon the resolution of said motions.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania

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<sup>1</sup> Notwithstanding the directive set forth in paragraph 2, the matter previously referred to Magistrate Judge Susan E. Schwab is excepted from this order. (See Docs. 51, 52, 59).